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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,152	05/07/2002	Satoshi Takagi	450101-03306	8644
20999	7590	02/12/2009		
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				EXAMINER BAIG, SAHAR A
		ART UNIT 2424		
		PAPER NUMBER MAIL DATE 02/12/2009		
		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/009,152	<b>Applicant(s)</b> TAKAGI ET AL.
	<b>Examiner</b> SAHAR A. BAIG	<b>Art Unit</b> 2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 December 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date: \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/08/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 4, 5, 6, 9, 10, 15, 16, 19, 20, 23, 24, 27, 28, 30, and 32 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The asset management method including

steps of acquiring, creating, associating, controlling, and retrieving data is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. For example,

Claim 4 recites:

An asset management method for managing an essence, comprising:

an acquisition step of acquiring video and audio data used to create the essence [*a person may obtain the video/audio data on a recordable disk*];

a creating step of creating said essence [*said person can then put two related audio and video disks in a group to create an essence*]

and for generating metadata for explaining said essence when creating said essence [*writing down the name of a song on a post it note*];

an associating step of associating said essence and the metadata with each other [*the post it note can then be posted on to the disk*];

a controlling step of controlling an operation performed on the archived essence based on said metadata to realize asset management for said essence [*the disks can then be cataloged in a shelf and then searched for retrieval*],

wherein the associating step issues and archives a tag indicating position or time of the acquisition [*this step may also be written down on the post it note*]; and a retrieving step of retrieving the metadata according to the tag [*Cataloged disks can be searched for retrieval of desired disk*].

Claims 5, 6, 9, 10, 15, 16, 19, 20, 23, 24, 27, 28, 30, and 32 are similar to claim 4 above in nature.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2424

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-32 rejected under 35 U.S.C. 103(a) as being unpatentable over Sheth et al. US Patent No. 6,311,194 in view of Kilpatrick et al. US Patent No. 6,061,688.

Regarding Claims 1-6, 26, 27, and 28 Sheth discloses an asset management method/system for managing an essence, comprising [Col. 4 lines 54-57]: acquisition means for acquiring video and audio data used to create the essence [Col. 6 lines 59-60], means for creating said essence [Col. 4 lines 63-64] and for generating metadata for explaining said essence when creating said essence [Col. 5 lines 5-7] means for archiving said essence and the metadata correlative with each other [Col. 4 line 67 – Col. 5 line 2 *metabase is an archive (recordings) of metadata*] and means for controlling an operation performed on the archived essence based on said metadata to realize asset management for said essence [Col. 5 lines 7-12].

Although Sheth fails to explicitly mention that the archiving means issues and archives a tag specifying the metadata and then retrieves the metadata according to the tag, in Col. 6 lines 39-45 Sheth suggests that XML allows for creation of customized tags. In Col. 4 lines 14-17 Sheth discloses automated content acquisition (retrieval means) may use metatags. Therefore it would have been obvious to one of ordinary skill to archive the tags created for later retrieval.

Still Sheth fails to mention the indication of position or time of the acquisition of the tag. In an analogous art, Kilpatrick et al. discloses a computer system that creates a metadata file having records connected to geographic locations on a map. In particular Kilpatrick discloses that data is stored in the metadata file regarding the geographic location **[Col. 1 lines 52-53]**. Therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Sheth and Kilpatrick for recording pertinent data in the metadata for the convenience of the searcher.

Regarding Claims 7-12, 17, 18, and 25, Official Notice is taken of the production system wherein a post-production project is created from an essence. To create the project pre production or post production would have been obvious to one of ordinary skill in the art once the method has been demonstrated by Sheth **[Col. 4 line 54 – Col. 5 line 14]**.

Regarding Claim 13-16, Official Notice is taken of the archiving system. Examiner deems it equivalent of the asset management system showed in Claims 1-6. Archiving essence and managing it in a database is identical.

Regarding Claim 19 and 20 Sheth discloses a distribution method for allotting an essence, comprising the steps of: creating said essence and generating metadata pertinent to said essence; performing post-production processing on

said essence; and allotting said essence using metadata generated at the time of said production [**Col. 5 line 5-12; A distributed method and apparatus to quickly produce agents which automatically create and manage digital media metadata...**].

Regarding Claim 21, 23, and 24, Official Notice is taken of the authoring system. Examiner deems it equivalent of the production system showed above.

Regarding Claim 22, Sheth discloses the use of semantics to enhance (*edit*) relevant information that may not be present in the original source (*video programme*) [**Col. 5; line 10-12**].

Regarding Claims 29-32, Sheth disclose all of the limitation except the use of UMID and SMPTE labels. The **SMPTE 330M Unique Material Identifier (UMID)** is a standard for providing a stand-alone method for generating a unique label designed to be used to attach to media files and streams. Since it's merely an industry standard the inclusion of such a feature would have been obvious to one of ordinary skill in the art and hence is not patentable.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2424

SB